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SUBJECT: AUSTRIA: SIXTH ANNUAL TRAFFICKING IN PERSONS (TIP)  
REPORT

REF: A) STATE 03836 B) 05 Vienna 602

¶1. Entire cable is sensitive but unclassified; please treat accordingly.

¶2. Below please find Embassy Vienna's submission for the annual TIP report. Responses are keyed to reftel.

BEGIN TEXT:

I21. OVERVIEW

¶A. Austria as a Country of Transit and Destination

Police, Ministry of Interior Officials and non-governmental organizations (NGOs) confirm that Austria is both a transit and destination country for trafficked persons. Police say that it is unclear exactly how many victims there are in Austria, as many are never identified or do not identify themselves as trafficked victims. Many remain hidden from law enforcement authorities. The International Organization for Migration (IOM) estimates there are 7,000 victims in Vienna alone, while the OSCE Task Force on Trafficking estimates around 4,000.

Austria is a transit and destination country for trafficked victims. Police estimate that the final destination for many of these victims is other EU countries, especially Italy, France, and Spain. Austria is also a country of destination for traffickers and victims. In recent years, Austria has seen a marked demographic shift in women trafficked into prostitution. Until the late 1980s, most trafficked women came from Latin America and Asia. Since the early 1990s, victims have originated almost exclusively from Eastern Europe. Officials believe that trafficked persons come primarily from Romania and Bulgaria, as well as countries of the former Soviet Union, such as Moldova and Ukraine.

Citizens of the Czech Republic, Hungary, and Slovakia as well as from Romania and Bulgaria do not require visas to enter

Austria (which makes it easier and less expensive for traffickers to make arrangements). Primary trafficking routes include a southern route from the Balkans to Vienna and on to Italy and Germany, a northern route from Prague to Linz and Vienna, and an eastern route from Russia, Ukraine, and Romania. Police have further identified patterns in African women being brought through Spain and Italy and then asking for asylum in Austria.

Vienna is the largest urban center in Austria and has experienced the bulk of trafficking cases. Trafficking is also a problem in provincial capitals, such as Graz, Linz, Salzburg, and Innsbruck. Police also noted a problem in smaller towns in Carinthia and in Wels, Upper Austria. Police think that trafficking is a problem throughout the country, due to the flexibility of the trafficking network and the desire for "new" prostitutes.

Trafficking in children, primarily from Bulgaria, continued to be a major area of concern to Austria authorities in 2005. In Vienna, authorities in 2005 identified roughly 700 children, mostly Bulgarian Roma girls, who were trafficked to Austria to steal, or for prostitution. So far, City of Vienna authorities have not been able to reach a satisfactory conclusion with Bulgarian officials in how to best address this problem.

#### IB. General Overview and Changes Since Last Report

The trafficking issue has been far more in the public eye this past year. Although Austria's role as EU President for the first half of 2006 is partly responsible for this, a high-profile case which rode the media news cycle wave in August

2005 also attracted much public and political attention.

The issue has also achieved more prominence in the political sphere. The opposition Social Democrat Party (SPO) called for fines for clients of trafficking victims if they are aware that the prostitution was forced, with the money going to institutions which care for trafficking victims. The SPO has also urged that trafficking victims be granted a period of 30 days during which they receive psychological and social assistance, but do not have to testify. Under the proposal, victims who testify would have a claim to a residence permit, as well as permission to work. Furthermore, names and addresses of victims would not be available to the accused and their lawyers during criminal procedures. There would also be additional measures in victims' home countries to facilitate their return. The SPO has also called for more specially trained law enforcement and judicial personnel, and for more financial and human resources for organizations providing counseling to victims of trafficking. Finally, the SPO has also suggested the introduction of a new regulation prohibiting the "facilitation of trafficking," as exists under German criminal code provisions.

At a December 2005 press conference, Interior Minister Liese Prokop announced that she planned to make the battle against trafficking in children a focus of the Austrian EU Presidency. In a mid-March 2006 seminar, the Austrian EU Presidency will provide training to law enforcement officials from 42 countries. Prokop specifically wants training to focus on improving interrogation skills in detecting trafficking victims and in providing care to victims.

#### II22. PREVENTION

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##### IA. Acknowledgment of the Problem

The government recognizes trafficking in persons as a problem and is committed to combating this phenomenon. The Interior Ministry works at the national and international level to raise awareness of human trafficking.

##### IB. Government Agencies

The Ministry of Interior is the primary government agency involved in anti-trafficking efforts. The Ministry of Foreign Affairs coordinates overall GOA efforts through its leadership of the inter-ministerial Task Force. At the local level, police are responsible for enforcement of violations of the criminal code and have the most day-to-day contact with victims.

#### I.C. Anti-Trafficking Campaigns

The Federal Chancellery, as well as the Austrian Broadcasting System (ORF) and the Vienna Film Fund, is subsidizing a documentary on trafficking. This should be finished in 2006.

#### I.D. Other Programs

#### I.E. Prevention Programs

The government funds NGOs--with LEFOE serving in a semi-official capacity--to provide services to victims and to conduct studies of the problem. The Ministry of Justice regularly holds training seminars for police, prosecutors, and judges to educate them on and sensitize them to trafficking issues. The government acknowledges that trafficking is a problem in Austria.

Interior Minister Liese Prokop announced in September 2005 that Austrian embassies and consulates in Russia, Belarus and Ukraine were issuing special information about dangers of

forced prostitution to women who applied for visas and declared an intent to work as dancer or in similar professions. Prokop also said she had instructed these embassies and consulates that women must apply in person for these visas in order for the embassies and consulates to exert more control over these cases. As discussed below, the "dancer" visa was eliminated as of January 1, 2006.

The City of Vienna is subsidizing five projects in Moldova, Hungary, Albania, Macedonia and Bulgaria to combat trafficking. These will cost Euros 100,000. The Vienna Social Democrat Party's women's organization, in cooperation with the charity organization CARE, is sponsoring a project in Bulgaria focusing on the prevention of trafficking in women and girls. The Austrian Development Agency is also seeking to finance projects focused on anti-trafficking, as well as other human rights issues, in southeastern Europe, eastern Europe, and central Asia.

The States of Lower Austria and Carinthia participated in an EU project called "Women East Smuggling and Trafficking" (WEST), which concluded successfully in June 2005. In cooperation with Italy and Albania, the project focused on analyzing trends in the trafficking and smuggling of human beings, and on developing information and measures to sensitize the public, particularly in rural areas.

The Economics Ministry, together with the European Social Fund, is sponsoring a newly-founded association called "Sophie." This association offers computer and German-language courses for sex workers, as well as counseling for prostitutes who would like to quit prostitution.

One victim participated in the witness protection program.

#### I.F. Relationship Between the Government and NGOs

The government works with NGOs to combat trafficking. Both the police and NGOs confirm that cooperation, based on mutual respect, is generally good and becoming more routine. In October 2005, there was a roundtable discussion on human trafficking, focused especially on female victims. Four ministers met for a three-hour roundtable with government and NGO representatives to discuss the problem.

#### I.G. Monitoring of Borders and Immigration Patterns

Austria has strong border control policies. However, due to its geographic location, it is a natural conduit for illicit activity into western Europe. Ministry of Interior officials say the border police are continually intensifying their efforts to strengthen its borders. Border officials screen for potential trafficking victims. A February 2005 seminar in Traiskirchen specifically focused on victim identification for law enforcement officials (see section 23-H for more details).

#### IH. Inter-Governmental and International al Coordination

The Interior Ministry focuses on the creation of policy goals for combating trafficking. The Federal Bureau for Criminal Affairs, along with local police forces, deals with the operational side of investigating and arresting traffickers. There is good coordination between these bodies.

The inter-ministerial Task Force on Trafficking in Human Beings continues to meet quarterly. It includes representatives from the Ministries of Health and Women's Affairs, Interior, Labor, Economics, Social Affairs, and Justice. Representatives from LEFOE and the Organization for Security and Cooperation in Europe's (OSCE) Taskforce on Trafficking also participate.

#### II. International Cooperation

Ministry of Interior Officials and members of the Federal Bureau for Criminal Affairs establish contacts with authorities in countries of origin to facilitate the prosecution of suspected traffickers and the disbanding of trafficking rings. At the EU level, Austria has worked with the European Union to focus attention on trafficking. Austria has harmonized its anti-trafficking legislation within the EU legal framework. The government also works closely with INTERPOL.

#### IJ. National Plan of Action

The Task Force on Trafficking in Human Beings is working to develop a National Plan of Action, and hopes to finish it by the end of 2006.

### III23. INVESTIGATION AND PROSECUTION OF TRAFFICKERS

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#### IA. Legal Provisions

There is no single law covering all forms of trafficking in persons. Article 217 of the Austrian criminal code, last amended in January 1999, and Article 104a of the Criminal Code, which went into effect in May 2004, are the key provisions for the prosecution of traffickers. Paragraph 1 of Article 217 prohibits "Border-crossing trafficking for the purpose of prostitution." Paragraph 1 refers to inducing or recruiting aliens for prostitution. Paragraph 2 of Article 217 covers trafficking for prostitution through the deception of someone regarding the purpose of their journey to Austria or through coercion or use of force. Article 104a prohibits trafficking for the purpose of sexual exploitation, exploitation of human organs, or labor exploitation.

Article 104 of the Criminal Code deals with trafficking for the purposes of slavery. Because it is difficult for prosecutors to prove that traffickers duped their victims or forced them into a dependency situation, especially when the victims are not willing to testify in court, Articles 217 and 104 of the Criminal Code are rarely used.

Article 104 (previously Articles 104 and 105) of the Aliens Act also contains criminal-law provisions on alien smuggling. The Ministry of Interior believes most traffickers are prosecuted under this section of law because facilitation of illegal entry is easier to prove than trafficking and does not require the testimony of victims. An additional criminal law

provision for Article 105 of the Aliens Act was introduced in June 2000. This provision generally prohibits the exploitation of aliens.

Trafficking crimes involving death and extreme violence receive stronger penalties under Austrian law than ordinary trafficking violations. Penalties are at least as stringent as those for rape. Austria provides for sentences ranging in length based upon the seriousness of the crime and the previous record of the accused. Punishment for trafficking is in line with other sentences for serious crimes under Austrian law.

NGOs have criticized police for not devoting enough resources to combat human trafficking. Police counter that it is difficult to enforce trafficking laws without witnesses willing to testify against perpetrators.

#### 1B. Penalties for Trafficking

Punishment under Article 217 of the Criminal Code results in sentences from six months to 10 years. Article 104a also provides for sentences up to 10 years. Article 104 of the Criminal Code requires sentences ranging from 10 to 20 years.

Article 104 of the Aliens Act provides for sentences of up to 10 years for persons convicted of alien smuggling. Article 105 provides for sentences of up to two years for persons who exploit aliens, under special circumstances, such as the death of the victim, up to 10 years.

#### 1C. Penalties for Rape

Article 201 of the criminal code provides for imprisonment of six months to 10 years for convictions for rape. Under specific circumstances such as torture, sentences can reach 15 years. In cases leading to the death of victims, sentences can reach 20 years.

#### 1D. Prostitution

Prostitution is legal in Austria and regulated at the provincial level. Federal law requires prostitutes to undergo mandatory health checks, register with authorities, and pay taxes. Prostitutes are covered by the health system. Prostitutes who do not conform to these requirements are subject to prosecution. The legal minimum age in all states is 18. There are 700 legal brothels in Austria and up to three times as many illegal ones. Approximately 500 women are registered as prostitutes in Vienna. The Ministry of Interior and provincial health authorities monitor the activities of the legal bordellos.

#### ED. Prosecution of Traffickers

In 2005, 76 cases against suspected traffickers were filed under Article 217 (border-crossing trafficking for the purpose of prostitution) while 92 were filed under 104a of the Criminal Code (trafficking). 1,274 cases were filed under Paragraph 104 of the Aliens Law (smuggling of aliens). 24 cases were filed under Paragraph 105 of the Aliens Law (exploitation of an alien). No cases were filed under Article 104 of the Criminal Code (slavery). For 2004, the number of convictions was as follows: 44 convictions under 217 Criminal Code; 330 convictions under Paragraph 104 of the Aliens Law; and five convictions under Paragraph 105 of the Aliens Law.

#### EF. Perpetrators

The police have caught both Austrian and foreign traffickers. Perpetrators who are involved when the police catch women in licensed brothels tend to be Austrian. Foreign nationals are mainly involved with secret, unlicensed brothels. Police think that organized crime groups, mainly from Eastern Europe,

control a large portion of trafficking in Austria. Police are aware of cooperation between domestic and foreign pimps for organizing the transfer of prostitutes from abroad to Austrian towns.

#### GF. Investigation of Cases

The government investigates all cases filed. Investigations are the responsibility of police, who must balance resources for this and other types of crimes. Authorities may make use of special provisions in the Aliens Act to obtain residence permits for victims.

The press has reported on a number of high-profile trafficking cases over the past year.

In December 2005, a Vienna court acquitted former Olympic ice skating champion Wolfgang Schwartz of trafficking charges. Schwartz had previously received a 1.5 year sentence for trafficking in 2002. In the 2005 case, the court was not able to verify charges that Schwarz had trafficked two Lithuanian women to Austria.

In a follow-up to the 2004 trafficking conviction of two men who ran a call-girl business, police authorities launched investigations against several prominent clients of that ring in 2005, since some of the girls had been under age (sex with minor prostitutes is punishable if the client knows that the girl is under age). Clients reportedly included high-ranking businessmen and lawyers.

#### HG. Training

The police academy offers police cadets a one-day course on dealing with trafficking. LEFOE conducts seminars on trafficking for law enforcement officials. In February 2006, the Austrian Academy for the Training of Law Officials, in conjunction with the International Center for Migration Policy Development (ICMPD), organized a training seminar focused on trafficking. Screening and identification of victims was a major topic. Participants came from Austria, Bulgaria, the Czech Republic, Estonia, Hungary, Italy, Luxembourg, Denmark, Slovenia, and the Netherlands. NGOs also participated and the seminar stressed the need for cooperation with NGOs.

WEST INFO, an offshoot of the EU-funded program WEST (Woman East Smuggling Trafficking), produced improved materials for police training, including CD-Roms and videos. WEST INFO hopes that these materials will help the police not only to improve victim identification skills, but also to have a better understanding of the victims and their situations. WEST INFO is also preparing curricula for students pursuing social work degrees at the tertiary level.

#### IH. Inter-governmental Cooperation

The government, at both the national and local levels, cooperates with authorities from other countries to investigate and prosecute trafficking cases. Cooperation with eastern European governments has been especially useful in prosecuting trafficking rings.

#### JI. Extradition

Alien trafficking is an extraditable offense. Under the European Extradition Convention of December 13, 1957, "extradition shall be granted in respect of offenses punishable under the laws of the requesting Party and of the requested Party by deprivation of liberty or under a detention order for a maximum period of at least one year or by a more severe penalty."

#### KJ. Government Involvement in Trafficking

There is no evidence of government involvement in or tolerance of trafficking on a local or institutional level.

1L. N/A

1M. CHILD SEX TOURISM

Under the law, any citizen engaging in the sexual abuse of a child in a foreign country is punishable under Austrian law, even if the actions are not punishable in the country where the abuse was committed.

LN. International Instruments

On December 4, 2001, the Austrian Government ratified ILO Convention 182, the Sale of Children Protocol which supplements the Rights of the Child Convention. Austria had signed the Sale of Children Protocol on September 6, 2000. On June 7, 1960, the Austrian Government ratified ILO Convention 129. On March 5, 1958, the Austrian Government ratified ILO

Convention 105. On December 12, 2000, Austria signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the U.N. Convention Against Transnational Organized Crime. The Protocol is currently before Parliament for ratification in June 2005. Ratification, which Justice Ministry officials estimate will happen this spring. The GOA is currently preparing ratification of the May 2005 Council of Europe Convention against Trafficking.

**IV. PROTECTION AND ASSISTANCE TO VICTIMS**

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1A. Immigration Assistance

Article 10(4) of the Aliens Act provides for temporary resident status for victims of human trafficking, as defined by Article 217 of the Criminal Code. Victims also have the possibility of continued residence if they meet criteria such as willingness and ability for integration in Austria.

The "Intervention Center for Victims of Trafficking" (IBF), run by the NGO LEFOE, provided counseling to 151 victims of trafficking. The IBF provided shelter to 37 victims, who came primarily from Romania and Bulgaria. LEFOE's key concerns remain easier access to the labor market for trafficking victims, and health insurance coverage. LEFOE reports that one third of victims to whom they provided counseling were forced into work, while two thirds were forced into prostitution.

The Vienna Center for Unassisted Minor Aliens offers illegal minors legal, medical, and social assistance.

1B. Funding for NGOs

The primary NGO dealing with trafficking in persons in Austria is LEFOE. In a change from last year, LEFOE now has a five-year mandate from the government for its activities. The GOA must still approve its annual budgets. This new situation provides more stability to the organization and the services it provides. Each province has at least one women's shelter that provides assistance to battered women. Victims of trafficking are allowed to stay in such shelters.

1C. Transfer of Victims

After police identify a victim of trafficking, they contact LEFOE and arrange for the victim to stay with them until the victim decides whether he or she would like to return to their home country or settle in Austria or elsewhere.

1D. Rights of Victims

The law gives victims whom police identify as victims of trafficking full rights. Police and government officials generally respect those rights. Victims of trafficking are sometimes guilty of violating Austrian immigration and employment laws. Persons violating immigration laws are

subject to deportation. Potential victims of trafficking who do not identify themselves as trafficked victims (or whom the police cannot identify as trafficked victims) are often deported. In cases where NGOs, police and the courts are aware of instances of trafficking, they can utilize provisions in the immigration law to allow victims to remain in Austria in order to testify against traffickers. At times, however, victims are in Austria legally and do not wish to return to their home countries.

The Interior Ministry grants residence permits to victims of trafficking based on Paragraph 10(4) of the Aliens Act. This paragraph describes residence permits for humanitarian reasons in general and does not specifically refer to victims of trafficking.

#### I.E. Legal Action Against Traffickers

The government encourages victims to assist in the investigation and prosecution of trafficking. Victims may file civil suits or seek legal action against traffickers. Austrian immigration law allows for the issuance of temporary residence permits for victims of trafficking. LEFOE provides legal assistance for victims.

LEFOE reported a successful intervention on behalf of a trafficking victim in 2005. A criminal court had awarded the victim Euro 1,000 in compensation. The LEFOE attorney intervened on behalf of the victim to achieve enforcement of the decision. Such enforcement is rare as perpetrators often manage to escape paying damage.

#### I.F. Protection for Victims and Witnesses

LEFOE provides secure housing and other support for victims of trafficking while in Austria. IOM seeks to put victims in contact with NGOs in their home countries upon their return. The police and Ministry of Interior Officials have established relationships with their counterparts in countries of origin to assist victims and assist prosecution of traffickers.

#### I.G. Training for Assistance to Trafficked Individuals

Training is provided to police on the issue of trafficking in persons and the needs of victims. (See section 23-H)

#### I.H. Government Assistance

Victims of trafficking in Austria have full access to the Austrian social system.

LEFOE, which the Government funds, provides secure housing for trafficking victims. (Please see paragraph below for more details.) The City of Vienna also operates a shelter for minors who are illegal aliens called the Vienna Center for Unassisted Minor Aliens.

#### I.I. NGO Assistance

LEFOE is the primary NGO in Austria dealing with victims of trafficking. Although the group's initial focus upon its creation in 1985 was in counseling and educating immigrant women from Latin America, it has since expanded to help female victims of trafficking from all nations. LEFOE's definition of trafficking is broader than the legal definition under Austrian law, and includes trafficking for forced marriage. LEFOE published a brochure for victims, providing information on their rights and on resources available to them.

LEFOE also provides psychological, legal, and health-related counseling and assistance, emergency housing, and German language courses. LEFOE workers will also assist victims to prepare for court proceedings against traffickers. LEFOE assists victims in returning to their country of origin, including liaising with counseling centers in these countries to ensure that victims continue to receive services upon return. LEFOE workers pay regular visits to prisons to offer

counseling and assistance to victims of trafficking.

Outside of Vienna, the "Independent Integration Center for Immigrants" in the city of Linz provides counseling for trafficked women. The cities of Innsbruck, Salzburg, Graz, Klagenfurt and St. Poelten provide assistance to trafficked women through their intervention centers for domestic abuse. Federal and local governments finance these intervention centers. The Boltzmann Institute for Human Rights conducts research on the issue of trafficking. IOM is also active in Austria and has conducted several studies of trafficking.

NGOs report generally good relations with authorities. However, NGOs continue to press for better enforcement of existing legal provisions and further training of officials in order to increase awareness and sensitivity of the problem of trafficking.

END REPORT

¶3. Post has no nominations for Heroes or Best Practices at this time. Preparation time: FS-01: 2 hours; FS-04: 40 hours; FSN-11: 40 Hours. Post Point of Contact for the TIP Report is Economic-Political Officer Christine Dal Bello, Tel +43 (1) 31339-2398, Fax +43 (1) 31339-2916.